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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Written statement* submitted by the International Centre for Human Rights and Democratic Development (Rights & Democracy), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 January 2002]

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*/ This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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ENG

The Situation in China

1. During the past year, gross violations of human rights have persisted in the People's Republic of China. China has used the events of September 11 to justify renewed crackdowns in its western regions particularly in Xinjiang (East Turkestan). Meanwhile, a renewed campaign against organizations and movements which the Party views as a threat is supported by a number of new regulations which allow the government to deny rights while claiming that it is merely abiding by the "rule of law".

2. China has yet to adequately live up to its commitments under the various agreements it has already ratified, specifically the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. There is no means of recourse for the victims of human rights violations perpetrated by the State on its citizens. China has not yet ratified the UN Covenant on Civil and Political Rights signed in 1999.

3. The terms of China's recent accession to the World Trade Organization (WTO) include the provision of technical assistance programs related to a variety of legal reforms such as the development of administrative systems governing the uniformity of domestic regulatory measures and the transparency of legal and judicial processes. A timeframe for implementation of the WTO agreements is integrated into the accession protocol itself which also sets out specific benchmarks for compliance. The WTO's binding dispute settlement mechanism will determine China's conformity with WTO rules within a multi-lateral process which includes binding decisions and enforcement measures.

4. On the other hand, the Memorandum of Understanding signed in November 2000 between the High Commissioner for Human Rights and the People's Republic of China on the issue of China's human rights compliance, fails to identify any timeframe for progress. The MOU does not include practical outputs or a methodology for monitoring the implementation of reforms. China continues to reject international processes related to its human rights record, including censure at the Commission on Human Rights, maintaining that such action is interference in its "internal affairs". One year into the technical assistance programme administered by the Office of the High Commissioner for Human Rights, violations of human rights in China continue unchecked and without hope of recourse for their victims.

5. While the number of bilateral human rights dialogues with western governments has grown and dialogue sessions continue to take place at regular intervals, the policy of quiet diplomacy has disappointed those who look beyond institutional reforms towards real improvements on specific human rights practises. Moreover, following the April 2001 meeting in Switzerland of all dialogue governments, no collaborative strategy or work plan has emerged and the bilateral dialogues themselves have floundered due largely to inadequate transparency or public accountability as well as post-September 11 imperatives.

6. Despite persistent reports of torture in prisons, a request by the UN Special Rapporteur on Torture to visit China has been de-railed by official objections to the terms of reference of his visit. Moreover, China's third report under the Convention Against Torture failed to acknowledge the serious nature of the problem of torture in China. The report did not propose any appropriate measures towards implementation of China's obligations under the Convention. Despite extensive documentation of torture in China's prisons, the inability of the international community to influence change either through UN mechanisms or via the bilateral dialogues means that those who, in their official capacity engage in acts of torture in China, do so with complete impunity.

7. In order to control the flow of information, the Government of China has shifted its policy of censorship towards one of surveillance and punishment. In November 2000, the Ministry of Public Security launched its "Golden Shield" project, to promote the adoption of advanced information and communication technology for the purpose of strengthening central police control. China's Golden Shield is envisioned as a database-driven remote surveillance system – offering immediate access to registration records on every citizen in China. Much of the advanced technology which enables China's Golden Shield has come from western telecommunications corporations despite evidence that it is being used to suppress the rights to privacy, opinion, expression and association of the Chinese people including democracy and social justice activists.

8. During May 2001, the Government of China signed an agreement with the International Labour Organisation (ILO) permitting the ILO to open an office in Beijing and to intervene on workplace issues such as job creation, social security reform, health and safety, collective bargaining and dispute resolution procedures. However, Beijing still refuses to respect the core principle of the right to organize an independent trade union, despite its obligations under the ILO's Declaration on the Fundamental Principles and Rights of Work. Moreover, freedom of association is guaranteed by the Chinese Constitution itself.

9. Trade unionists continue to suffer denial of their right to freedom of association and the right to form independent trade unions. Arrest of labour activists is widespread and sentences of several years are common for efforts to organise workers outside of the state-sanctioned process. In December 1999, labour lawyer Xu Jian of Baotou City in Inner Mongolia was arrested and later charged with attempting to overthrow the state and the socialist system. The charges resulted from Xu's efforts to educate local workers about China's labour laws and his efforts to represent workers who had not received their due wages from state-owned enterprises. Xu was sentenced to four years, but is reported to be in poor health and denied access to appropriate health care while in prison.

10. Under the guise of a new "Western Development Strategy" (WDS), Beijing has launched a campaign to control political dissent in its western regions, including Qinghai, Gansu, Sichuan, Yunnan, Shaanxi as well as Uighur, Tibetan and Hui Autonomous regions. Described by President Jiang Zemin as a means to "strengthen national unity, safeguard social stability and consolidate border defence", the WDS is viewed by

observers as a double-edged sword. While increased central control over the western economy will facilitate political and military control of the restive region, the exploitation of untouched natural resource reserves will underpin increased growth and prosperity for industrialised but resource-poor eastern provinces. Foreign direct investment, undertaken in the name of "development" but without consideration of human rights impacts, threatens the economic, social and cultural rights of China's poorest and least–developed provinces.

11. In Tibet, Chinese authorities continue to suppress "splittist" activities and exert control over religious activities. After the events of September 11, authorities launched a new "Strike Hard, High Pressure" campaign, targeting "separatists, terrorists and religious extremists" and arresting several hundred individuals including monks, nuns and intellectuals. Gendhun Choekyi Nyima, the 12 year old Tibetan prisoner recognized by the Dalai Lama to be the Panchen Lama, has been held in incommunicado detention since May 17, 1995. Efforts by the international community to obtain permission to visit the child, remain unsuccessful.

12. Political and religious repression in Eastern Turkestan (Xinjiang) has escalated in the past year, particularly after the events of September 11. Chinese authorities have arbitrarily arrested thousands, sentenced them to harsh prison sentences without due process, closed religious centers, schools and mosques and limited the activities of Uighur-owned businesses. Public security officials have reinforced their "iron fist" campaign against what they term "religious fundamentalists, splittists and terrorists". In the absence of due process, public sentencing rallies have become the norm, even when the death penalty is applied. According to the vice-president of Xinjiang's Higher People's Court, Lu Qifa, these sentencing rallies are often attended by more than 300,000 people. By May 10, 2001, according to official accounts, the authorities were prosecuting 3,701 cases and had smashed 185 "gangs," "thus forcefully shaking the arrogance of the criminal elements."

13. Discrimination against the practice of Falun Gong by Chinese authorities has escalated in the past year to the point where officials, up to and including President Jiang Zemin, are openly characterizing Falun Gong practitioners as "terrorists". In his presentation to a three-day national conference in December 2001, Jiang said that the Falun Gong was not a religion but an "evil cult", with some members practising violent and terrorist acts. It is estimated that 25,000 practitioners are now languishing in labour camps, prisons or mental hospitals across China.

RECOMMENDATIONS

1. The Commission on Human Rights should adopt a resolution on the situation of human rights in China, East Turkestan and Tibet, with a view to ending specific human rights abuses as outlined above.

2. The Commission on Human Rights should urge the Government of China to ratify the Convenant on Civil and Political Rights.

3. The Commission on Human Rights should take steps to ensure that the Government of China honours the terms of reference for country visits by its Special Rapporteurs and that the visit to China by the Special Rapporteur on Torture proceeds without further delay.

4. The Commission on Human Rights should encourage the Government of China to honour its obligations under the Right to Development and the International Covenant on Economic, Social and Cultural Rights, including the right to self-determination.

5. The Commission on Human Rights should appoint an independent delegation of eminent persons to petition Chinese authorities for permission to visit the 12 year old Tibetan child, Gendhun Choekyi Nyima, for the purpose of ascertaining his safety.

6. The Commission on Human Rights should make a statement of principle regarding legitimate struggles for human rights and democracy and the protection of human rights defenders in the post September 11 context.

7. The Commission on Human Rights should press Chinese authorities for restraint in their response to Falun Gong practitioners. Specifically, Chinese authorities should guarantee that the right to a fair trial is upheld for all citizens of China including Falun Gong practitioners.